

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WAYNE KENNETH AUGÉ, II, M.D.,
Individually and as Trustee on Behalf of
Covalent Global Trust,

Plaintiff,

vs.

CV No. 14-1089 KG/SMV

STRYKER CORPORATION, and
HOWMEDICA OSTEONICS CORP.,

Defendants.

ORDER GRANTING IN PART JOINT MOTION

This matter is before the Court on the parties' Joint Motion Regarding August 9-10, 2021 Pretrial Conference (Motion) (Doc. 396). In their Motion, the parties request that "the Court release the parties' experts from the obligation to be available during the pretrial conference." (Doc. 396) at 1. In addition, the parties ask that "the Court defer consideration of objections to exhibits until at or near the trial." *Id.* The Court will address each request in turn.

First, the parties explain that "neither party has filed a motion in limine with respect to the other party's damages expert." *Id.* at 2. Therefore, the parties request that these two experts—Dr. Keith Ugone and Ambreen Salters—be excused from attending the pretrial conference. *Id.* The Court agrees that Dr. Ugone and Ms. Salter's presence at the pretrial conference is unnecessary. As a result, both experts are properly excused.

Similarly, the parties request excusal of experts Wayne Burkhead and Karl Leinsing. *Id.* at 2. In support, the parties request that the Court hear any challenges to the witnesses' admissibility closer to the start of trial. *Id.* Recently, however, the Court disposed of both

Daubert Motions challenging the experts' proposed testimony. *See* (Docs. 399, 401). Therefore, the parties' request to delay consideration of the experts' admissibility is now moot. Given the Court's recent Orders, both Dr. Burkhead and Mr. Leinsing are excused from attending the pretrial conference. *See id.*

Second, the parties request "that the Court defer consideration of the parties' [exhibit] objections" because several of the objections can be resolved "after the Court rules on the parties' motion in limine." (Doc. 396) at 3. However, the Court recently decided the parties' pending pretrial motions. *See* (Docs. 397, 398, 399, 400, 401). As a result, the Court may now resolve the parties' objections to the exhibits. For this reason, the Court denies the parties' request to postpone the Court's review of their objections at the pretrial conference. The parties are directed to come prepared with their outstanding disputes identified. In addition, the parties are directed to ensure that both opposing counsel and the Court are in receipt of their pre-marked exhibits, in advance of the pretrial conference. The Court has set a telephonic status conference for August 6, 2021, at 9:30 a.m. MST to determine whether the pretrial conference shall proceed as scheduled or should proceed at a later date.

In conclusion, the Court grants the parties' request to excuse the expert witnesses from the pretrial conference. Moreover, the Court denies the parties' request to defer consideration of their exhibit objections. Relatedly, the parties are directed to furnish a copy of their pre-marked exhibits to both opposing counsel and the Court. As a result, the Court grants in part and denies in part the parties' Joint Motion (Doc. 396).

IT IS ORDERED.


UNITED STATES DISTRICT JUDGE